

JUDGE KOEHL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

INDICTMENT

- v. - :

GUY BRIZARD,
a/k/a "Guyto Brizard" and
BERTHONY LOUIS,

08 Cr.

08 CRIM 793

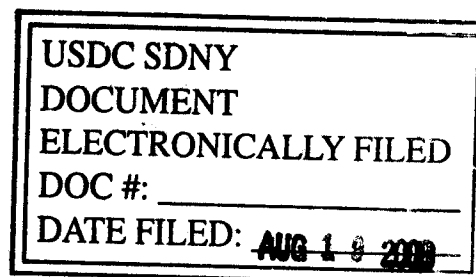
Defendants. :

- - - - - x

COUNT ONE

(Conspiracy)

The Grand Jury charges:



Background

1. At all times relevant to this Indictment, New York-Presbyterian Hospital (the "Hospital") was a hospital located in New York, New York. Patients of the Hospital resided throughout the United States and abroad.

2. At all times relevant to this Indictment, patients of the Hospital provided their personal identification information, including name, date of birth, social security number and insurance information, to a member of the Hospital's admitting staff on or before admission.

3. At certain times relevant to this Indictment, the Hospital used a computer system called "Siemens Eagle" as its primary computer system for managing patient information. The "Siemens Eagle" system contained patient registration information, such as patient admissions, transfers, and

discharges, as well as the identification information of each of the Hospital's patients. That identification information included the name, date of birth, social security number and insurance information of each patient.

4. At all times relevant to this Indictment, the Hospital's "Siemens Eagle" system was owned and maintained by the Hospital, and was connected to servers in Pennsylvania. The "Siemens Eagle" system could only be accessed by users authorized by the Hospital. The Hospital provided each authorized user with a user name and password, which had to be used to log onto the "Siemens Eagle" system. At certain times relevant to this Indictment, the "Siemens Eagle" system produced logs detailing all users who logged into the system, and showed what records the user accessed while in the system.

5. At certain times relevant to this Indictment, Dwight McPherson, a co-conspirator not named as a defendant herein, was an employee of the Hospital. Specifically, McPherson was an admissions representative who worked the evening shift at the Hospital. As an admission representative, McPherson was assigned the user name "DWM9006." McPherson was specifically trained on the "Siemens Eagle" system and instructed by the Hospital that he was permitted to access the "Siemens Eagle" system only to view records of patients that had been specifically assigned to him.

The Scheme

6. From in or about September 1999 to at least in or about 2002, a co-conspirator not named as a defendant herein, ("CC-1"), and Dwight McPherson, a co-conspirator not named as a defendant herein, worked together in the billing department of a medical center located in New York, New York.

7. During all times relevant to this Indictment, CC-1 was in the business of purchasing and selling the identification information of other persons to individuals engaged in forms of identity theft and fraud.

8. From at least in or about 2007 to in or about 2008, CC-1 obtained the identification information of Hospital patients from Dwight McPherson, a co-conspirator not named as a defendant herein. McPherson had illegally accessed and obtained such patient identification information, which was transferred to CC-1, from the Hospital's "Siemens Eagle" system, using the user name "DWM9006."

9. In or about 2007 or 2008, BERTHONY LOUIS, the defendant, purchased patient identification information illegally obtained from the Hospital's "Siemens Eagle" system from CC-1. LOUIS then transferred the patient identification from Queens, New York to Philadelphia, Pennsylvania.

10. GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, used the patient identification

information illegally obtained from the Hospital to obtain, among other things, lines of credit in Hospital patients' names.

BRIZARD and LOUIS then used those lines of credit to purchase merchandise, and to engage in other forms of identity theft and fraud.

The Conspiracy

11. From in or about 2007 through in or about May 2008, in the Southern District of New York and elsewhere, GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, and others known and unknown, unlawfully, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, violations of Title 18, United States Code, Sections 1028(a)(7), 1028A, and 1343.

The Objects of the Conspiracy

12. It was a part and object of the conspiracy that GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, and others known and unknown, unlawfully, willfully and knowingly, would and did transfer, possess and use, in and affecting interstate and foreign commerce, without lawful authority, means of identification of other persons with the intent to commit, and to aid and abet, and in connection with, unlawful activity that constitutes a violation of Federal law, and that constitutes a felony under applicable State and local

laws, and as a result, would and did obtain things of value aggregating \$1,000 and more during a one-year period, in violation of Title 18, United States Code, Section 1028(a)(7), (b)(1)(D) and (c)(3)(A).

13. It was further a part and object of the conspiracy that GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, and others known and unknown, during and in relation to a felony violation enumerated in subsection (c) of Title 18, United States Code, Section 1028A, to wit, wire fraud, a violation of Title 18, United States Code, Section 1343, unlawfully, willfully and knowingly would and did transfer, possess and use, without lawful authority, a means of identification of another person, in violation of Title 18, United States Code, Section 1028A(a)(1) and (c)(5).

14. It was further a part and object of the conspiracy that GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice to defraud, in violation of

Title 18, United States Code, Section 1343.

Overt Acts

15. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. From in or about March 2006 to in or about February 2008, using a computer in New York, New York, Dwight McPherson, a co-conspirator not named as a defendant herein, improperly accessed tens of thousands of records of patients of the Hospital.

b. From in or about 2007 to in or about February 2008, Dwight McPherson, a co-conspirator not named as a defendant herein, sold over 1,000 patient records, which contained identification information, that he obtained in New York, New York to CC-1 in Brooklyn, New York.

c. In or about 2007 or 2008, BERTHONY LOUIS, the defendant, transported to Philadelphia, Pennsylvania documents containing patient profiles that were obtained using a computer in New York, New York by Dwight McPherson, a co-conspirator not named as a defendant herein.

d. On or about May 7, 2008, GUY BRIZARD, a/k/a "Guyto Brizard," the defendant, possessed in Philadelphia, Pennsylvania documents containing profiles of over 600 patients

of the Hospital, which were obtained using a computer in New York, New York by Dwight McPherson, a co-conspirator not named as a defendant herein.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Fraud In Connection With Means Of Identification)

The Grand Jury further charges:

16. The allegations in paragraphs 1 through 10 are repeated, re-alleged and incorporated as if set forth fully herein.

17. From in or about 2007 through in or about May 2008, in the Southern District of New York and elsewhere, GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, unlawfully, willfully and knowingly did transfer, possess and use, in and affecting interstate and foreign commerce, without lawful authority, a means of identification of another person with the intent to commit, and to aid and abet, and in connection with, unlawful activity that constitutes a violation of Federal law, and that constitutes a felony under applicable State and local law, and as a result, would and did obtain things of value aggregating \$1,000 and more during a one-year period, to wit, BRIZARD and LOUIS willfully caused the transfer, transferred, possessed and used without authorization the means of identification of Hospital patients and, as a

result, obtained merchandise totaling \$1,000 and more in 2008.

(Title 18, United States Code, Sections 1028(a)(7),
1028(b)(1)(D), 1028(c)(3), and 2.)

COUNT THREE

(Aggravated Identity Theft)

The Grand Jury further alleges:

18. The allegations in paragraphs 1 through 10 are repeated, re-alleged and incorporated as if set forth fully herein.

19. In or about 2008, in the Southern District of New York and elsewhere, GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, and others known and unknown, during and in relation to felony violations enumerated in subsection (c) of Title 18, United States Code, Section 1028A, to wit, wire fraud, in violation of Title 18, United States Code, Section 1343, unlawfully, willfully and knowingly transferred, possessed and used, without lawful authority, a means of identification of another person, to wit, BRIZARD and LOUIS willfully caused the transfer, transferred, possessed and used without lawful authority the means of identification of Hospital patients to open lines of credit with Dell Inc. over the Internet and telephone lines, in violation of Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1028A(a)(1) and (c)(5)
and 2.)

FORFEITURE ALLEGATIONS AS TO IDENTITY FRAUD OFFENSES

20. As a result of committing the identity fraud and conspiracy to commit identify fraud offenses alleged in Counts One and Two of this Indictment, GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(2)(B), any property constituting or derived from proceeds obtained directly or indirectly as a result of the offenses.

Substitute Asset Provision

21. If any of the above-described forfeitable property, as a result of any act or omission of GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants:

- a. cannot be located upon the exercise of due diligence;
 - b. has been transferred or sold to, or deposited with, a third person;
 - c. has been placed beyond the jurisdiction of the Court;
 - d. has been substantially diminished in value;
- or

e. has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to 18 U.S.C. § 982(b) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 982 and 1028 and Title 21, United States Code, Section 853)

FORFEITURE ALLEGATION AS TO WIRE FRAUD CONSPIRACY OFFENSE

22. As a result of committing the conspiracy to commit wire fraud offense alleged in Count One of this Indictment, GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense.

Substitute Asset Provision

23. If any of the above-described forfeitable property, as a result of any act or omission of GUY BRIZARD, a/k/a "Guyto Brizard," and BERTHONY LOUIS, the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of

the Court;

d. has been substantially diminished in value;

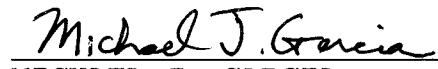
or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981 and 1343;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)


FOREPERSON


MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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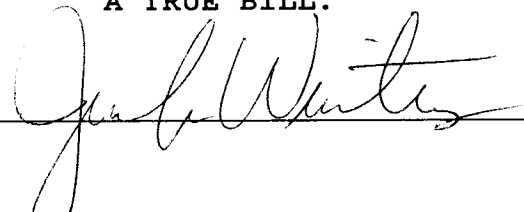
INDICTMENT

08 Cr.

(Title 18, United States Code,
371, 1028(a)(7), (b)(1)(D), (c)(3)(A),
and 1028A(a)(1) and (c)(5) and 2)

MICHAEL J. GARCIA
United States Attorney

A TRUE BILL.



Foreperson

6/19/08
Pld Ind Post 11-1-87 This case
is assigned to Judge Koeltz to
All papers

May Judge Koeltz